

OCT 24 2017

JULIA C. DUDLEY, CLERK  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

KEVIN BALLANCE,	)	CASE NO. 7:17CV00468
	)	
Plaintiff,	)	
v.	)	MEMORANDUM OPINION
	)	
FRANK J. ZANIN, <u>ET AL</u> ,	)	By: Glen E. Conrad
	)	United States District Judge
Defendant(s).	)	

Plaintiff, a Virginia inmate proceeding pro se, filed a civil rights complaint, pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. Because court records show that plaintiff has had at least three prior cases dismissed for one of the above-stated reasons, he must prepay the full \$400.00 in filing costs unless he shows imminent danger of serious physical harm. See 28 U.S.C. § 1915(g). Plaintiff has also stated his intention to pay these filing costs. Accordingly, by order entered October 5, 2017, the court directed him to pay the \$400.00 filing costs within fourteen days. The order notified plaintiff that failure to comply would result in dismissal of the action without prejudice. The time allotted for payment of the fees has passed, and plaintiff has not forwarded this payment to the court or moved for additional time to do so.


Therefore, for the reasons stated, the court will dismiss the action without prejudice. See Id. at 96 (stating pro se litigants are subject to time requirements and respect for court orders and dismissal without prejudice is an appropriate sanction for non-compliance); Donnelly v. Johns-Manville Sales Corp., 677 F.2d 339, 340-41 (3d Cir. 1982) (recognizing a district court may sua sponte dismiss an action pursuant to Fed. R. Civ. P. 41(b)). An appropriate order will enter this day.

Plaintiff is advised that if he intends to proceed with this action, he must petition the court within 30 of the entry of this order for a reinstatement of this action. Any motion for

reinstatement should provide specific explanation for his failure to respond in a timely fashion to the court's order of October 5, 2017.

The Clerk is directed to send a copy of this order to the plaintiff.

**ENTER:** This 23<sup>rd</sup> day of October, 2017.

  
\_\_\_\_\_  
United States District Judge